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In re Application of :  
Fukuda, et al. :  
Application No. 10/784,877 : ON PETITION  
Filed: February 24, 2004 :  
Attorney Docket No. 9694D-000002/US :

This is a decision on the papers styled, "Petition Under 37 CFR 1.181," filed July 19, 2004, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of February 24, 2004, including Figure 11C as described in the specification.

The application was filed on February 24, 2004. However, on May 18, 2004, the Office of Initial Patent Application mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figure 11C as described in the specification appears to have been omitted.

In response, on July 19, 2004, the instant petition was submitted. Petitioner asserts that Figure 11C was submitted with the original drawings. Petitioner states, "Applicants note that Fig. 11(c) is provided on the same drawing sheet as Figs. 11A-11B. To be more consistent with the written description, Applicants enclose a replacement sheet of drawings in which Fig. 11(c) is relabeled as Fig. 11C. This specific drawing change does not introduce any prohibitive new matter."

A review of the originally filed drawings indicates the presence of Figure 11C, albeit mislabeled as only "(c)".

In view of the above, it appears that the drawing of Figure 11C was present on February 24, 2004, but mislabeled by applicants as "(c)" rather than "Fig. 11C". Since it is now clear that Figure 11C was present on February 24, 2004, albeit mislabeled, the

Figure may be considered as filed with the application on February 24, 2004.

The petition is granted.

Please note, the \$130.00 petition fee is required, since a petition was necessary to correct applicants' filing error, and not necessitated by any error on the part of the Office.

This application will be returned to OIPE for further processing with a filing date of February 24, 2004, and using the replacement drawing containing Figure 11C, submitted on July 19, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.



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